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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,261	08/29/2003	Frederick B. Harris	5266-08801	1957

44015 7590 07/03/2006

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EXAMINER

MA, JOHNNY

ART UNIT PAPER NUMBER

2623

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	Application No.	Applicant(s)	
	10/652,261	HARRIS, FREDERICK B.	
	Examiner	Art Unit	
	Johnny Ma	2623	

**–The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**

THE REPLY FILED 06 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
Please see attached.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

  
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## DETAILED ACTION

### *Response to Arguments*

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is not persuasive and, therefore, the finality of that action is maintained. As noted in the previous Office Action, the action was "a new Final Rejection in view of amendments to the claims filed on 9/16/2005 and 2/21/2006." Although the Applicant correctly asserts that the 2/21/2006 amendment did not necessitate the new grounds of rejection, the previous Action was primarily made final in view of the 9/16/2005 amendments.
2. Applicant's arguments filed 6/6/2006 have been fully considered but they are not persuasive.

Regarding claim 1, Applicant first argues that "a module number as recited, and clearly described, is not equivalent to a channel." (Remarks pg. 10). The examiner respectfully disagrees since the claim only appears to recite "module number" without any language defining a module number, particularly language that would preclude a channel from being equivalent to a module number. Applicant further argues:

*However, Turner does not teach or suggest that a programme is retrieved in response to matching a channel to a programme. Although Turner discloses that EPG information may include channel information, Turner is silent as to which parts of the EPG information are used to select a programme. Even though a user of Turner's system might be able to match a channel to a programme, Turner does not disclose such a step as part of programme selection, nor would identifying the channel on which the programme is to be shown be sufficient to allow a programme to be retrieved without additional information such as the time and length of the programme. Accordingly Applicant finds no teaching or suggestion in Turner of "retrieving a first module of said modules at the client device, in response to matching the received qualifying module number to said first module," as recited in claim 1.*

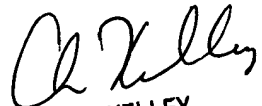
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The examiner respectfully disagrees. As a preliminary matter, the examiner agrees that identifying the channel on which the program is to be shown, alone would not be sufficient to allow a programme to be retrieved without additional information. However, the examiner notes that the claim does not preclude the use of additional information. Furthermore, as discussed in the previous Office Action, the Turner reference teaches “[t]he results to the users query can be displayed in a form that the user can browse and select programmes to watch and record” (Turner [0027]) wherein by selecting a program to be watched, a program [module] is retrieved by channel [module number]). Thus regardless of whether additional information regarding the time and length of a particular program is required, the selection of a program to be watched requires tuning to that specific program channel. This tuning process (retrieval by channel number) equates to matching the received qualifying module number to said first module. The program is retrieved by tuning to that program channel wherein the tuning process inherently tunes to a channel that matches the channel information of that particular program.

Regarding claim 3, Applicant argues that there is “no teaching or suggestion in the cited art, either singly or in combination, of ‘a viewer generating a video request based upon said displayed information, said video being associated with said first module,’ as is recited in claim 3.” Upon careful consideration, the examiner respectfully submits that Applicant appears to have mischaracterized the Turner and Dunn combination as discussed in the previous Office Action. As noted in the previous Office Action, the Turner reference “discloses broadcasting programming to users over a plurality of channels (Turner [0001]) wherein a user may submit a search to retrieve matching programs (modules) (Turner [0024-0028]). As an example, the Turner reference discloses that the server processes the request by searching the subtitle/closed

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caption database for information relating to the keywords (Turner [0028]). However, the Turner reference was silent as to requesting video from a server. The Dunn reference was relied upon for such a teaching. The Dunn reference teaches a VOD channel and requesting video from the VOD channel. The combination of the Dunn VOD channel and previews with the Turner plurality of channels (module numbers) with programs (modules) taught a plurality of channels with programs, wherein the programs (modules) include previews. It is noted that the new releases trailers are displayed on the VOD channel without an user request (Dunn 6:55-60). Furthermore, the resulting Turner and Dunn combination teaches order programs that are related to the previews (modules) (see previous Office Action, pg. 7). Thus, the examiner respectfully submits that the Tuner and Dunn combination satisfies the claimed "viewer generating a video request based upon said displayed information [ordering based on previews], said video being associated with said first module [the ordered program corresponding to a specific preview (the first module)]."



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